

CATHERINE CORTEZ MASTO
Nevada Attorney General
WILLAM J. GEDDES, ESQ. #6984
Senior Deputy Attorney General
NEVADA ATTORNEY GENERALS OFFICE
100 N. Carson St.
Carson City, NV 89701
(775) 684-1251
Attorneys for Defendant

HAGER & HEARNE
ROBERT R. HAGER, ESQ. #1482
TREVA J. HEARNE, ESQ. #4450
245 E. Liberty St., Ste. 110
Reno, NV 89501
Tele: (775) 329-5800
Attorneys for Plaintiffs

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">OCT 14 2011</div>	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TONJA BROWN, *administratrix* of the
Estate of NOLAN KLEIN and TONJA
BROWN, as an Individual;

Plaintiff,

vs.

STATE OF NEVADA *ex rel.* the
DEPARTMENT OF CORRECTIONS, and
HOWARD SKOLNIK, DIRECTOR OF THE
DEPARTMENT OF CORRECTIONS;

Defendant.

Case No. 3:10-cv-00679-HDM-VPC

**STIPULATION AND PROPOSED
ORDER FOR EXTENSION OF
TIME TO CONDUCT MEDIATION
and SUBSEQUENT DEADLINES**

(SECOND REQUEST)

COME NOW Defendant by and through Counsel, WILLIAM GEDDES, ESQ.,
Nevada Attorney General's Office and Plaintiffs by and through Counsel, TREVA J.
HEARNE, ESQ. Hager & Hearne, and, and hereby stipulate as follows:

I. STIPULATION

WHEREAS:

1. The original discovery cut-off for this case was August 3, 2011, with
summary judgment motions due thirty (30) days later, or by September 2, 2011

1 (Docket No. 015, the Scheduling Order);

2 2. However, during a status conference, the parties expressed to the Court
3 their desire to convene a court-presided settlement conference in this case;

4 3. The parties desired to hold such a settlement conference *after* the close
5 of discovery, on the expectation that completing discovery would permit the parties to
6 become better informed as to the merits and demerits of their cases, thereby enabling
7 them to better evaluate the settlement dimensions of this case;

8 4. The parties further desired to stay the briefing schedule on any summary
9 judgment motion that might be filed in this case until *after* the settlement conference, so
10 as to allow the parties: (a) to promote a settlement perspective, rather than divisive
11 motion practice; and (b) to conserve the parties and the Court's resources that might be
12 unnecessarily wasted, should the case settle at the mediation conference;

13 5. Accordingly, on June 3, 2011, the Court granted that request, issuing its
14 Order of Docket No. 22, which scheduled a settlement conference for Thursday, August
15 11, 2011 at 9:00 a.m.;

16 6. On July 11, 2011, in Docket No. 026, the parties jointly requested of the
17 Court that additional time be given to complete depositions in this case. This was their
18 first and only request to extend discovery;

19 7. When petitioning the Court for this extension, the parties were careful to
20 request that all subsequent dates, that relate to the close of discovery, including
21 *mediation and summary judgment motions* also be extended accordingly, as follows:

22 THEREFORE IT IS HEREBY STIPULATED AND AGREED
23 TO BY AND AMONG THE PARTIES:

24 1. Discovery should be enlarged by thirty (30) days,
25 through and including September 2, 2011, for the limited
26 purposes of completing the above-referenced depositions;
27 and

28 2. The parties agree to jointly petition the Court for such
an enlargement of time to complete these depositions.

///

1 3. The remaining scheduling order should also be
2 enlarged by thirty (30) days, including the date for the
3 mediation conference, and the deadlines for summary
4 judgment motions, and the other post-discovery deadlines.

(Docket No. 026, p. 3, ll. 1-10.)

5 8. On July 13, 2011, the Court granted that request, in its Order of Docket
6 No. 029, and separately issued;

7 9. On August 5, 2011, the Court issued its Order of Docket No. 034,
8 rescheduling the settlement conference from August 11, 2011 to October 24, 2011;

9 10. Since that time, counsel for the parties have encountered extremely
10 congested schedules in the period leading up to and after October 24, 2011, as below
11 set forth:

12 a. For Defense Counsel, he has had to prepare for taking or
13 defending depositions every week in the Month of October, 2011, for the nationwide
14 tobacco arbitration, as follows:

15 i. October 3-6, 2011: preparation for, and the taking of, out-of-
16 state deposition of the RJR Tobacco Company "database-topic" Rule 30(b)(6) witness
17 in Washington, D.C., and travel time for the same;

18 ii. October 10-14, 2011: preparation for, and the taking of, in-
19 state depositions of the State of Nevada's two Rule 30(b)(6) witnesses;

20 iii. October 17-21, 2011: preparation for and the taking of: (a)
21 Out-of-state deposition of the Daughters and Ryan deposition, in Washington, D.C.,
22 and travel time for the same; and (b) out-of-state deposition of the RJR Tobacco
23 Company "general-topic" 30(b)(6) witness in North Carolina, and travel time for the
24 same;

25 iv. October 24-28, 2011: preparation for and the taking of the
26 Philip Morris Rule 30(b)(6) "general-topic" deposition in Richmond, Virginia, and travel
27 time for the same;

28 b. For Plaintiffs' counsel, their calendar is, as follows:

- i. October 24, 2011: Sentencing in Lassen County, CA
- ii. October 26 – 28, 2011: Depositions
- iii. November 3, 2011: Hearing in USDC Eastern District of CA,
in Sacramento
- iv. November 4, 2011: Depositions
- v. November 7, 2011: Oral Arguments in USDC Nevada, Reno
- vi. November 10, 2011: Mediation
- vii. November 11, 2011: Depositions
- viii. November 21-25, 2011: Plaintiffs Counsel has family in from
out of town for the Thanksgiving holiday, and will be taking time off for the same

11. Accordingly, the parties agree to jointly petition the Court herein to continue the Settlement Conference and all post-settlement-conference deadlines to a later date;


12. Upon making inquiry of the Clerk of the Court, the parties have learned that November 29, 2011 appears to be a potential date of availability for the Court to hold a rescheduled mediation conference;

THEREFORE IT IS HEREBY STIPULATED AND AGREED TO BY AND AMONG THE PARTIES:

1. The mediation conference, currently scheduled for October 24, 2011 be vacated and rescheduled for Tuesday, November 29, 2011 at 9:00 a.m.;

2. The deadlines triggered by any failed mediation conference would be enlarged, such that: (a) any **summary judgment motions** be filed no later than thirty (30) days after the mediation conference, or by Thursday, December 29, 2011; and (b) if no summary judgment motions are filed, then the parties shall file their **joint pretrial order** thirty (30) days after the deadline for filing summary judgment motions, or by Monday, January 30, 2012 (given that the thirtieth (30) day following December 29, 2011 falls on a Saturday and is automatically extended by operation of Fed. R. Civ. P. 6);

3. The parties agree to jointly petition the Court for such an enlargements of time, as herein stipulated.

Dated: October 7, 2011 	Dated: October 10, 2011 /s/ TREVA J. HEARNE
WILLAM J. GEDDES, ESQ. #6984 Senior Deputy Attorney General Nevada Attorney General's Office 100 N. Carson St., Carson City, NV 89701-4717 Attorneys for Defendant	TREVA J. HEARNE, ESQ., #4450 HAGER & HEARNE 245 E. Liberty St., Suite 110 Reno, NV 89501 (775) 329-5800

ORDER

The Court, having reviewed the preceding Stipulation and GOOD CAUSE APPEARING THEREFORE, HEREBY ORDERS that the mediation conference, currently scheduled for October 24, 2011 be vacated and rescheduled for **Tuesday, November 29, 2011** at ~~9:00~~ ^{9:30 AM} a.m. The settlement conference statements shall be received in chambers by no later than Tuesday, **November 22, 2011**. All other aspects of the Court's *Order Scheduling Settlement Conference* (Docket No. 22) shall remain in effect. IT IS FURTHER ORDERED THAT, should the Settlement Conference fail to settle this case, any summary judgment motions that the parties wish to file be filed no later than **Thursday, December 29, 2011**. If no summary judgment motions are filed, then the parties shall file their joint pretrial order by **Monday, January 30, 2012**.

IT IS SO ORDERED *There shall be no further extensions of the scheduling order in this case. VPL*
DATED this 14th day of October, 2011.


UNITED STATES MAGISTRATE JUDGE